



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA FAX (202-588-5020) AND CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**SEP 19 2011**

Melanie Sloan, Executive Director  
Center for Responsibility and Ethics in Washington  
1400 Eye Street, NW, Suite 450  
Washington, DC 20005

RE: MUR 6314

Dear Ms. Sloan:

This is in reference to the complaint you filed with the Federal Election Commission on June 16, 2010, concerning Gregory Brown and Gregory Brown for Congress. On March 17, 2011, the Commission found that there is reason to believe Gregory Brown for Congress and Carol Bausinger, in her official capacity as treasurer ("the Committee"), violated 2 U.S.C. §§ 433(a), 434(a), and 434(b), provisions of the Federal Election Campaign Act of 1971, as amended, and 11 C.F.R. § 104.12 of the Commission's Regulations. On September 15, 2011, a conciliation agreement signed by the Committee was accepted by the Commission.

In addition, on March 17, 2011, the Commission found that there is no reason to believe Gregory Brown violated 2 U.S.C. § 434(a). Accordingly, the Commission closed the file in this matter on September 15, 2011.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). A copy of the agreement with the Committee is enclosed for your information. In addition, a copy of the Factual and Legal Analysis, which further explains the Commission's determination, is enclosed. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Margaret Ritzert  
Attorney

Enclosures  
Conciliation Agreement(s)  
Factual and Legal Analysis

11044303824

11044303825

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the matter of

MUR 6314

Gregory Brown for Congress and  
Carol Bausinger, in her official capacity  
as treasurer

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
2011 SEP -2 AM 11:14  
OFFICE OF GENERAL  
COUNSEL

**CONCILIATION AGREEMENT**

This matter was initiated by a signed, sworn, and notarized complaint by Melanie Sloan and Citizens for Responsibility and Ethics in Washington, and pursuant to information ascertained by the Federal Election Commission ("Commission") in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Gregory Brown for Congress and Carol Bausinger, in her official capacity as treasurer, ("Respondents" or "Committee") violated 2 U.S.C. §§ 433(a), 434(a), and 434(b), and 11 C.F.R. § 104.12.

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:



1 however, the activity during the same period was eventually disclosed in the 2010 July Quarterly  
2 Report originally filed on June 10, 2010 and later amended on June 11 and June 20, 2010.

3 Content of Disclosure Reports

4 6. The Act requires political committees to report the amount of cash-on-hand at the  
5 beginning of the reporting period, as well as identify each person who makes aggregate  
6 contributions in excess of \$200 in an election cycle. 2 U.S.C. § 434(b)(1) and (3). Commission  
7 regulations further clarify that committees which have cash-on-hand at the time of their  
8 registration shall disclose the sources of such funds on their first report. 11 C.F.R. § 104.12.  
9 The Act also requires that reports disclose the amount and nature of outstanding debts and  
10 obligations owed by the political committee. 2 U.S.C. § 434(b)(8).

11 7. Mr. Brown deposited the initial funds in the Committee's account, and thereafter the  
12 Committee ran a negative balance. The Committee's first report filed with the Commission, the  
13 2010 April Quarterly Report, discloses an initial cash balance of \$10,000, but does not disclose  
14 Mr. Brown as the source of that initial cash balance. The Amended 2010 April Quarterly Report  
15 also discloses a negative ending cash-on-hand balance of \$54,118.45, and does not disclose any  
16 debts or obligations.

17 V. 1. Respondents violated 2 U.S.C. § 433(a) by filing the Statement of  
18 Organization 74 days late.

19 2. Respondents violated 2 U.S.C. § 434(a) by filing the 2010 April Quarterly  
20 Report 56 days late and by failing to file the 2010 12-Day Pre-Primary Report.

21 3. Respondents violated 2 U.S.C. § 434(b) and 11 C.F.R. § 104.12 by failing to  
22 disclose an initial \$10,000 contribution from Mr. Brown and thereafter failing to accurately  
23 report its cash-on-hand and debt on its 2010 April Quarterly Report.

11044303827

1 VI. 1. In ordinary circumstances, the Commission would seek a substantially higher  
2 civil penalty based on the violations outlined in this agreement. However, the Commission is  
3 taking into account the fact that the Committee is defunct, has no cash on hand according to the  
4 evidence available, and has a limited ability to raise any additional funds. Respondents will pay  
5 a civil penalty to the Commission in the amount of \$4,500, pursuant to 2 U.S.C. § 437g(a)(5)(B).

6 2. Respondents will cease and desist committing violations of 2 U.S.C. §§ 433(a),  
7 434(a), and 434(b), and 11 C.F.R. § 104.12.

8 3. Respondents will amend the relevant disclosure reports to accurately reflect  
9 the contribution from Mr. Brown and debts and obligations referenced at paragraphs IV.7 and  
10 V.3 within 30 days.

11 VII. The Commission, on request of anyone filing a complaint under 2 U.S.C.  
12 § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance  
13 with this agreement. If the Commission believes that this agreement or any requirement thereof  
14 has been violated, it may institute a civil action for relief in the United States District Court for  
15 the District of Columbia.

16 VIII. This agreement shall become effective as of the date that all parties hereto have  
17 executed same and the Commission has approved the entire agreement.

18 IX. Respondents shall have no more than 30 days from the date this agreement becomes  
19 effective to comply with and implement the requirements contained in this agreement and to so  
20 notify the Commission.  
21


11044303828

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained within this written agreement shall be enforceable.

FOR THE COMMISSION:

P. Christopher Hughey  
Acting General Counsel

BY:

  
Kathleen Guith  
Acting Associate General Counsel  
For Enforcement

9-16-11  
Date

FOR THE RESPONDENTS:

  
Eliezer R. Carter  
Counsel

August 24, 2011  
Date

11044303829

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS:** Gregory Brown for Congress and MUR: 6314  
Carol Bausinger, in her official  
capacity as treasurer  
Gregory Brown

**I. GENERATION OF MATTER**

This matter was generated based on information ascertained by the Federal Election Commission ("Commission") in the normal course of carrying out its supervisory responsibilities, see 2 U.S.C. § 437g(a)(2), and by a complaint filed with the Commission by Melanie Sloan and Citizens for Responsibility and Ethics in Washington.

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Factual Background**

Gregory Brown was a candidate in the June 8, 2010, South Carolina primary election, seeking the Democratic nomination to represent the state's Sixth Congressional District in the U.S. House of Representatives. On February 1, 2010, Mr. Brown filed a Statement of Candidacy with the Commission that designated Gregory Brown for Congress and Carol Bausinger, in her official capacity as treasurer, ("Committee") as his principal campaign committee. The Committee filed its Statement of Organization on April 26, 2010.

The Committee has filed the following disclosure reports with the Commission:

11044303830

Table 1. Reports Filed with the Commission

Date	Report
6/10/10	April Quarterly Report
6/10/10	July Quarterly Report
6/11/10	July Quarterly Report (Amended)
6/20/10	April Quarterly Report (Amended)
6/20/10	July Quarterly Report (Amended)
7/28/10	Termination Report
11/7/10	Termination Report
1/4/11	Termination Report
2/9/11	Termination Report

The Committee attempted to terminate after Mr. Brown lost the primary election, but the Reports Analysis Division ("RAD") informed the Committee that it needed to resolve outstanding discrepancies in its reports before it could terminate.

**1. MUR 6314**

Complainant alleges that Respondents knowingly and willfully violated 2 U.S.C. § 434(a)(2)(A)(i), (iii) and 11 C.F.R. § 104.5(a)(1)(i), (2)(i) by failing to file both the 2010 April Quarterly and 12-Day Pre-Primary Reports.

Respondents admit that the disclosure reports were untimely. Respondents maintain that any delays in filing the required reports were "not the result of any intentional or willful misconduct," and they have filed all required reports. See Response. Without providing any specific information, Respondents claim that they mistakenly relied on information provided by the state political party. They also claim, again without providing any specific information, to have relied on information the Commission provided to them regarding filing requirements.<sup>1</sup> Respondents further claim that they relocated their campaign headquarters, which resulted in lost mail and "temporary loss of full communication." *Id.*

<sup>1</sup> There is no record of the Committee contacting RAD until July 27, 2010, after it had filed the Amended 2010 April and July Quarterly Reports.

11044303831



2. RR 10L-09

On July 1, 2010, RAD sent the Committee two Requests for Additional Information ("RFAI's") regarding the 2010 April and July Quarterly Reports, respectively. The Committee has not yet filed a response to these RFAI's; however, the Committee's treasurer contacted a RAD Analyst on July 27, 2010, to inquire about the process for terminating. Between September 3, 2010, and September 28, 2010, RAD Analysts made several attempts to contact the Committee to notify them of potential Commission action. However, as the Committee's phone numbers and e-mail addresses were no longer in service, RAD left a message at Mr. Brown's business, Keystone Enterprises, which was not returned.

On October 18, 2010, RAD referred the Committee to the Office of General Counsel for the following reporting violations:

- Failing to correct an initial cash balance of \$10,000 on its 2010 April Quarterly Report, the first disclosure report filed with the Commission. Both the original and Amended April Quarterly Reports reflect this balance, and neither includes a supporting schedule disclosing the source of this initial balance.
- Failing to correct a negative ending cash-on-hand balance on its April 2010 Quarterly Report. The April Quarterly Report filed on June 10, 2010, discloses a negative ending cash-on-hand balance of \$35,164.65; the amended report, filed ten days later, discloses a negative ending cash-on-hand balance of \$54,118.45.
- Failing to correct a cash-on-hand balance discrepancy between two consecutive reports: while the Amended 2010 April Quarterly Report discloses a negative ending cash-on-hand balance of \$54,118.45, the 2010 July Quarterly Report discloses a beginning cash-on-hand balance of \$0.00. The Amended 2010 July Quarterly Reports also disclose a \$0.00 beginning cash-on-hand balance.

On December 16, 2010, the Committee responded to the notification of the referral by contending that the candidate deposited the original funds in the campaign account, and thereafter the campaign ran a negative balance to be paid by the candidate himself. The

11044303832

1 Committee acknowledges that there may have been accounting defects, but asserts that there was  
2 no inappropriate use of funds.

3 **B. Legal Analysis**

4 Under the Federal Election Campaign Act of 1971, as amended ("the Act"), an individual  
5 becomes a candidate for federal office when his or her campaign exceeds \$5,000 in contributions  
6 or expenditures. 2 U.S.C. § 431(2). Based on its Amended 2010 April Quarterly Report, it  
7 appears that the Committee exceeded the \$5,000 threshold on February 2, 2010, when it made a  
8 \$10,000 disbursement to Steven Foose & Associates for a "campaign questionnaire."<sup>2</sup>  
9 Accordingly, Mr. Brown was a candidate for federal office on February 2, 2010, which was the  
10 day after the Commission received Mr. Brown's Statement of Candidacy.

11 **1. MUR 6314: Timeliness of Disclosure Reports**

12 Political committee treasurers are required to file reports of receipts and disbursements in  
13 accordance with 2 U.S.C. § 434(a). A principal campaign committee of a candidate for the U.S.  
14 House of Representatives, in any calendar year during which there is a regularly scheduled  
15 election for which its candidate is seeking election, shall file quarterly reports no later than the  
16 15th day after the last day of each calendar quarter. 2 U.S.C. § 434(a)(2)(A)(iii). Furthermore,  
17 such committee shall file a pre-election report no later than the 12th day before any election in  
18 which such candidate is seeking election. 2 U.S.C. § 434(a)(2)(A)(i).

19 The Committee was required to file the 2010 April Quarterly Report by April 15, 2010.  
20 However, the Committee actually filed this report, which disclosed \$400 in receipts and  
21 \$45,564.65 in disbursements (later amended to \$64,518.45 in disbursements), on June 10, 2010 –

<sup>2</sup> Although the Amended 2010 April Quarterly Report discloses the \$10,000 disbursement on February 2, 2010, it discloses only \$400 in contributions for the entire reporting period, in addition to the initial \$10,000 cash balance. It is possible that the Committee may have exceeded the \$5,000 contribution threshold before February 2, 2010, through an undisclosed transaction, but there is no information to indicate the nature or amount of this potential undisclosed transaction.

11044303833

1 56 days late. Similarly, the Committee was also required to file a report no later than twelve  
2 days before the June 8, 2010, primary in which Mr. Brown was a candidate. This report, due  
3 May 27, 2010, should have covered the period from April 1, 2010, to May 19, 2010. To date, the  
4 Committee has not filed this report; however, the same period of activity was eventually covered  
5 by the 2010 July Quarterly Report, which disclosed \$300 in receipts (later amended to \$24,300)  
6 and \$20,504.72 in disbursements (later amended to \$39,366.89) that should have been disclosed  
7 on the pre-primary report.

8 Although the Committee failed to timely file the 2010 April Quarterly Report and failed  
9 to file the 2010 12-Day Pre-Primary Report, there is no information to indicate either that these  
10 violations were knowing and willful, or that the candidate, Mr. Brown, was personally liable for  
11 the Committee's failure to file timely disclosure reports. Accordingly, the Commission finds  
12 reason to believe that Gregory Brown for Congress and Carol Bausinger, in her official capacity  
13 as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(i) and (iii). The Commission also finds no reason  
14 to believe that Gregory Brown violated 2 U.S.C. § 434(a)(2)(A)(i) and (iii).

## 15 2. RR 10L-09: Content of Disclosure Reports

16 The Act requires political committees to report the amount of cash-on-hand at the  
17 beginning of the reporting period, as well as identify each person who makes aggregate  
18 contributions in excess of \$200 in an election cycle. 2 U.S.C. § 434(b)(1), (3). Commission  
19 regulations further clarify that committees which have cash-on-hand at the time of their  
20 registration shall disclose the sources of such funds on their first report. 11 C.F.R. § 104.12.  
21 Based on the information provided in the referral, the response, and the Committee's disclosure  
22 reports, it appears that Mr. Brown initially made a personal \$10,000 contribution to the  
23 Committee, which the Committee disclosed as an initial cash balance on its first report.

11044303834

1 However, by failing to disclose Mr. Brown as the source of its initial \$10,000 cash balance, the  
2 Committee violated 2 U.S.C. § 434(b) and 11 C.F.R. § 104.12.

3 The Act also requires that reports disclose the amount and nature of outstanding debts  
4 and obligations owed by the political committee. 2 U.S.C. § 434(b)(8). Based on the referral,  
5 the response, and disclosure reports, it appears that the Committee incurred \$54,118.45 in debt  
6 and reported it as a negative cash balance instead of as a debt or obligation. By failing to  
7 disclose this \$54,118.45 as debt, the Committee violated 2 U.S.C. § 434(b)(8).

8 Finally, the discrepancy between the ending cash-on-hand balance on the Amended 2010  
9 April Quarterly Report (-\$54,118.45) and the beginning cash-on-hand balance on the 2010 July  
10 Quarterly Report (\$0.00) could indicate that the Committee failed to disclose all contributions,  
11 offsets, and operating expenditures in violation of 2 U.S.C. § 434(b)(7). However, it appears that  
12 this discrepancy is attributable to the misreported debt discussed above: if the Committee had  
13 reported \$54,118.45 as debt on its Amended 2010 April Quarterly Report, its ending cash-on-  
14 hand balance would be \$0.00, which would match the beginning cash-on-hand balance reported  
15 in the 2010 July Quarterly Report. Thus, the discrepancy does not appear to be a separate  
16 violation of 2 U.S.C. § 434(b)(7). Accordingly, the Commission finds reason to believe that  
17 Gregory Brown for Congress and Carol Bausinger, in her official capacity as treasurer, violated  
18 2 U.S.C. § 434(b)(1), (3), and (8) and 11 C.F.R. § 104.12.

19 **3. Late Statement of Organization**

20 Based on the information in its disclosure reports, the Committee appears to have filed its  
21 Statement of Organization late. A candidate's authorized principal campaign committee is  
22 required to file a Statement of Organization within ten days of designation. 2 U.S.C. § 433(a).  
23 Mr. Brown designated the Committee as his principal campaign committee on February 1, 2010;  
24 therefore, the Committee should have filed its Statement of Organization by February 11, 2010.

11044303835

- 1 Instead, the Committee filed its Statement of Organization on April 26, 2010 – 74 days late.
- 2 Accordingly, the Commission finds reason to believe that Gregory Brown for Congress and
- 3 Carol Bausinger, in her official capacity as treasurer, violated 2 U.S.C. § 433(a).

11044303836